101st Congress, 1st Session - - - - - - - - - - House Document 101-106

EXTENSION OF FISHERY AGREEMENT BETWEEN THE UNITED STATES AND JAPAN

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN AGREEMENT EXTENDING THE GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES AND THE GOVERNMENT OF JAPAN, PURSUANT TO 16 U.S.C. 1823(a), PUBLIC LAW 94-265, SEC. 203(a)

OCTOBER 31, 1989.—Message and accompanying papers referred to the Committee on Merchant Marine and Fisheries and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

39-011 WASHINGTON : 1989

H560-7

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265; 16 U.S.C. 1801 *et seq.*, "the Act"), I transmit herewith an agreement effected by exchange of notes, October 6, 1989, extending for the period of 2 years from December 31, 1989, until December 31, 1991, the Agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries off the Coasts of the United States, signed at Washington on September 10, 1982. The exchange of notes, together with the present agreement, as amended, constitute a governing international fishery agreement within the meaning of section 201(c) of the Act.

Several U.S. fishing industry interests have urged prompt consideration of this agreement. Because of the importance of our fishing relationship with Japan, I urge that the Congress give favorable consideration of this agreement at an early date.

Since 60 calendar days of continuous session, as required by the legislation, will not be available before the current agreement is scheduled to expire, I recommend the Congress consider passage of a joint resolution approving the extension.

GEORGE BUSH.

THE WHITE HOUSE, *October 30, 1989.*

EMBASSY OF JAPAN
WASHINGTON, D. C.

Washington, October 6, 1989

Excellency,

I have the honour to acknowledge the receipt of your Note of today's date, which reads as follows:

"I have the honor to refer to the Agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries off the Coasts of the United States of America, signed at Washington on September 10, 1982, as amended and extended by the Agreement of November 10, 1987 (hereinafter referred to as "the Agreement"). I have further the honor to propose that the Agreement be extended until December 31, 1991 in accordance with the provisions of Article XVII thereof.

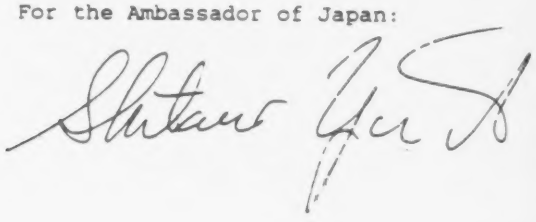
I have further the honor to propose that if the said proposal is acceptable to the Government of Japan, this Note and Your Excellency's Note in reply indicating such acceptance shall be regarded as constituting an agreement between the two Governments, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments."

His Excellency
James A. Baker III
Secretary of State
Washington, D. C.

I have further the honour to confirm on behalf of the Government of Japan that the said proposal is acceptable to the Government of Japan and to agree that your Note and this Note in reply shall be regarded as constituting an agreement between the two Governments, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments.

I avail myself of this opportunity to renew to you the assurance of my highest consideration.

For the Ambassador of Japan:



DEPARTMENT OF STATE
WASHINGTON

October 6, 1989

Excellency:

I have the honor to refer to the Agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries off the Coasts of the United States of America, signed at Washington on September 10, 1982, as amended and extended by the Agreement of November 10, 1987 (hereinafter referred to as "the Agreement"). I have further the honor to propose that the Agreement be extended until December 31, 1991 in accordance with the provisions of Article XVII thereof.

I have further the honor to propose that if the said proposal is acceptable to the Government of Japan, this Note and Your Excellency's Note in reply indicating such acceptance shall be regarded as constituting an agreement between the two Governments, which will enter into force on a date to be agreed upon in a subsequent exchange of diplomatic notes between the two Governments.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:

His Excellency

Nobuo Matsunaga,

Ambassador of Japan.

I certify that this is a true copy of the original note.

Jeffrey A. Mapke
October 6, 1989

AGREEMENT AMENDING THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAPAN CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES OF AMERICA

The Government of the United States of America and the Government of Japan,

Desiring to amend the Agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries off the Coasts of the United States of America, signed at Washington on September 10, 1982, (hereinafter referred to as the "Agreement"); and

Desiring to extend the Agreement until December 31, 1989,

Have agreed as follows:

Article 1

The second paragraph of the preamble of the Agreement shall be deleted and replaced by the following:

"Recognizing that the United States has established, within 200 nautical miles of its coasts, a zone designated as the United States exclusive economic zone by the Presidential Proclamation of March 10, 1983, (hereinafter referred to as the "Zone"), within which the United States has sovereign rights and exclusive fishery management authority over all fish and continental shelf fishery resources, and that the United States also exercises exclusive fishery management authority over all fishery resources of the continental shelf appertaining to the United States and over anadromous species of fish of United States origin;"

Article 2

The phrase "fishery conservation zone" shall be replaced by the word "Zone" wherever it appears in the Agreement.

Article 3

The phrase "exercises exclusive fishery management authority" shall be replaced by the phrase "exercises sovereign rights and/or exclusive fishery management authority" wherever it appears in the Agreement and the Annexes, except for the second paragraph of the preamble and Article I of the Agreement.

Article 4

Article I of the Agreement shall be deleted and replaced by the following:

"ARTICLE I

The purpose of this Agreement is to promote effective conservation, rational management, and the achievement of optimum yield in the fisheries of mutual interest off the coasts of the United States, to facilitate the rapid and full development of the United States fishing industry, and to establish a common understanding of the principles and procedures under which fishing may be allowed to continue by nationals and fishing vessels of Japan for the

living resources over which the United States exercises sovereign rights and/or exclusive fishery management authority."

Article 5

Paragraph 2 of Article IV of the Agreement shall be amended by deleting the phrase "affecting the stocks."

Article 6

Paragraph 2 of Article V of the Agreement shall be deleted and replaced by the following:

"2. whether, and to what extent, such nations are cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors, and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nations have requested an allocation;"

Article 7

In Article VII of the Agreement the phrase "and the amended Annex to the Convention," shall be inserted immediately following the phrase "as amended by the Protocol signed at Tokyo on April 25, 1978."

Article 8

Article IX of the Agreement shall be amended by deleting the last sentence and replacing it with the following sentence:

"The Government of the United States may require the payment of fees in accordance with United States law for such permits and for fishing in the Zone."

Article 9

Article XIII of the Agreement shall be amended as follows:

1. In paragraph 1, the words "owners or operators" shall be deleted and replaced by the words "owners, operators or crews."

2. In paragraphs 2 and 3, the word "crews" shall be deleted and replaced by the words "operators or crews."

Article 10

Article XVII of the Agreement, shall be amended by replacing the date "December 31, 1987" with the date "December 31, 1989."

Article 11

Annex II of the Agreement shall be amended by adding a new paragraph 7 after paragraph 6 to read as follows:

"7. Any action by the United States Government to impose additional conditions or restrictions on the approved applications, or to revoke or suspend permits in the case of a violation of the terms and conditions imposed upon nationals and fishing vessels of Japan by the relevant provisions of the Magnuson Fishery Conservation and Management Act of 1976, as amended, shall be carried out in accordance with United States law."

Article 12

This "Agreement Amending the Agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries off the Coasts of the United States of America" shall be approved by the two Governments in accordance with their respective internal legal procedures. It shall enter into force on the date when diplomatic notes indicating such approval are exchanged, and shall remain in force for the period of the Agreement.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Washington, on the tenth day of November, 1987, in duplicate in the English and Japanese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF JAPAN:

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AGREED MINUTES

The representatives of the Government of the United States of America and the Government of Japan have agreed to record the following in connection with the "Agreement Amending the Agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries off the Coasts of the United States of America," signed at Washington on November 10, 1987, and the Agreed Minutes to the "Agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries off the Coasts of the United States of America," signed at Washington on September 10, 1982, (hereinafter referred to as the "Agreed Minutes").

1. The phrase "fishery conservation zone" shall be replaced by the word "Zone" wherever it appears in the Agreed Minutes.

2. The following new paragraph shall be inserted immediately after paragraph 5 of the Agreed Minutes:

"6. The representative of the Government of Japan noted that, in providing economic data pursuant to Article VI it was understood that such economic data does not include confidential business information regarding individual Japanese companies."

3. Remaining paragraphs 6, 7, 8, 9, 10 and 11 of the Agreed Minutes shall be renumbered as paragraphs 7, 8, 9, 10, 11 and 12.

4. In the last sentence of paragraph 8 of the Agreed Minutes (renumbered paragraph 9), the words "or observer" shall be added after the phrase "duly authorized enforcement officer."

Washington, November 10, 1987.

FOR THE GOVERNMENT OF
THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT
OF JAPAN:

アメリカ合衆国の地先沖合における漁業に関するアメリカ合衆国政府と日本国政府との間の協定を改正する協定

アメリカ合衆国政府及び日本国政府は、

千九百八十二年九月十日にワシントンで署名されたアメリカ合衆国の地先沖合における漁業に関するアメリカ合衆国政府と日本国政府との間の協定（以下「協定」という。）を改正することを希望し、

協定の有効期間を千九百八十九年十二月三十一日まで延長することを希望して、

次のとおり協定した。

第一条

協定前文の第二段落を次のように改める。

合衆国が、その距岸二百海里の内側に、同国がすべての魚類及び大陸棚の漁業資源に対して主権的権利及び排他的漁業管理権を有する同国の排他的経済水域として千九百八十三年三月十日の大統領宣言によつて示された水域（以下「合衆国水域」という。）を設定したこと並びに合衆国が、同国に属する大陸棚の漁業資源に対して及び同国起源の溯河性魚種に対して排他的漁業管理権を行使していることを認め、

第二条

協定中「漁業保存水域」を「合衆国水域」に改める。

第三条

協定（附属書を含むものとし、前文の第二段落及び第一条を除く。）中「排他的漁業管理権を行使する」を「主権的権利又は排他的漁業管理権を行使する」に改める。

第四条

協定第一条を次のように改める。

第一条

この協定は、合衆国の地先沖合における両国政府が相互に

関心を有する漁業における効果的な保存、合理的な管理及び最適生産の達成を促進すること、合衆国の水産業の迅速かつ十分な発展を容易にすること並びに合衆国が主権的権利又は排他的漁業管理権を行使する生物資源の日本国の国民及び漁船による漁獲が継続され得るための原則及び手続についての共通の了解を確立することを目的とする。

第五条

協定第四条2中「魚種に影響する」を削る。

第六条

協定第五条2を次のように改める。

2　当該国が、合衆国の加工業者から魚類の製品（特に、当該国が割当てを要請している魚類の製品）を購入することにより現に存する及び新たな合衆国の水産物輸出の機会を増大することについて並びに合衆国の漁業者から魚類及びその製品（特に、当該国が割当てを要請している魚類及びその製品）を購入することにより水産物貿易の機会を増大することについて合衆国と協力しているかどうか並びにその協力の程度

第七条

協定第七条中「千九百七十八年四月二十五日に東京で署名さ

れた議定書による改正」の下に「及び同国際条約の附属書の修正」を加える。

第八条

協定第九条の第四文を次のように改める。

合衆国政府は、当該許可証の発給及び合衆国水域内における漁獲に関し合衆国の法律に従つて料金の支払を要求することができる。

第九条

協定第十三条中次の改正を行う。

1　同条1中「所有者若しくは運航者」を「所有者、運航者若しくは乗組員」に改める。

2　同条2中「乗組員」を「運航者若しくは乗組員」に改め、同条3中「乗組員」を「運航者又は乗組員」に改める。

第十条

協定第十七条中「千九百八十七年十二月三十一日」を「千九百八十九年十二月三十一日」に改める。

第十一条

協定の附属書Ⅱ6の次に次の7を加える。

7　承認された申請に追加的条件若しくは制限を付し、又は千九百七十六年のマグナソン漁業保存管理法（改正を含む。）の関係規定によつて日本国の国民及び漁船に課された条件に対する違反があつた場合に許可証の取消し若しくは停止を行う合衆国政府のいかなる行為も、合衆国の法律に従つて行われる。

第十二条

この協定は、両国政府によりそれぞれの国内法上の手続に従つて承認されなければならない。この協定は、その承認を通知する外交上の公文が交換された日に効力を生じ、協定の有効期間中効力を有する。

以上の証拠として、下名は、各自の政府から正当に委任を受けてこの協定に署名した。

千九百八十七年十一月十日にワシントンで、ひとしく正文である英語及び日本語により本書二通を作成した。

アメリカ合衆国政府のために

日本国政府のために

松永信雄

合意された議事録

アメリカ合衆国政府の代表者及び日本国政府の代表者は、千九百八十七年十一月十日にワシントンで署名された「アメリカ合衆国の地先沖合における漁業に関するアメリカ合衆国政府と日本国政府との間の協定を改正する協定」及び千九百八十二年九月十日にワシントンで署名された「アメリカ合衆国の地先沖合における漁業に関するアメリカ合衆国政府と日本国政府との間の協定」に関連して合意された議事録（以下「合意議事録」という。）に関連して、次のとおり記録することに合意した。

1　合意議事録中「漁業保存水域」を「合衆国水域」に改める。

2　合意議事録5の次に次の新たな6を加える。

6　日本国政府の代表者は、第六条の規定に従つて経済に関

する資料を提供する場合においてこのような経済に関する資料は個々の日本国の企業の事業活動に係る秘密の情報を含まないものと了解されることに留意した。

3　合意議事録6、7、8、9、10及び11をそれぞれ7、8、9、10、11及び12とする。

4　合意議事録8（新たな9）の第二文中「正当に権限を有する取締官」の下に「若しくは視察員」を加える。

千九百八十七年十一月十日にワシントンで

アメリカ合衆国政府のために

日本国政府のために

松永信雄

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF JAPAN CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES OF AMERICA

The Government of the United States of America and the Government of Japan,

Recognizing that the United States has established a fishery conservation zone within 200 nautical miles of its coasts within which the United States exercises exclusive fishery management authority over all fish and that the United States also exercises such authority over the living resources of the continental shelf appertaining to the United States and over anadromous species of fish of United States origin;

Recalling that they signed the Agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries off the Coasts of the United States of America on March 18, 1977;

Recognizing that Japan has been cooperating in the rational management and conservation of the living resources off the coasts of the United States and that the nationals and fishing vessels of Japan have been cooperating in the development of and engaging in the utilization of these resources off the coasts of the United States;

Desiring to continue and further develop mutual cooperation;

Considering their common concern for the rational management, conservation and achievement of optimum yield of fishery resources off the coasts of the United States;

Taking into account international law relating to oceans and fisheries; and

Desiring to establish reasonable terms and conditions pertaining to fishing for the living resources of mutual concern over which the United States exercises exclusive fishery management authority;

Have agreed as follows:

ARTICLE I

The purpose of this Agreement is to promote rational management, effective conservation and achievement of optimum yield of fishery resources of mutual interest off the coasts of the United States and to establish a common understanding of the principles and procedures under which fishing may be conducted by nationals and fishing vessels of Japan for the living resources over which the United States exercises exclusive fishery management authority.

ARTICLE II

As used in this Agreement, the term

1. "living resources over which the United States exercises exclusive fishery management authority" means all fish within the fishery conservation zone, all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters while present in the fishery conservation zone and in areas beyond national fisheries jurisdictions recognized by the United States and all living resources of the continental shelf appertaining to the United States;

2. "fish" means all finfish, mollusks, crustaceans, and other forms of marine animal and plant life, other than marine mammals, birds, and species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean;

3. "fishery resources" means one or more stocks of fish that can be treated as a unit for purposes of management and conservation and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics;

4. "fishery" means any fishing for fishery resources;

5. "fishery conservation zone" means a zone contiguous to the territorial sea of the United States, the seaward boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the breadth of the territorial sea of the United States is measured;

6. "fishing" means

(a) the catching, taking or harvesting of fish;

(b) the attempted catching, taking or harvesting of fish;

(c) any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish; or

(d) any operation at sea, including supply, storage, refrigeration, transportation or processing, directly in support of, or in preparation for, any activity described in sub-paragraphs (a) through (c) above,

provided that such term does not include other legitimate uses of the high seas, including any scientific research activity;

7. "fishing vessel" means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for

(a) fishing; or

(b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing; and

8. "marine mammal" means any mammal that is morphologically adapted to the marine environment, including sea otters and members of the orders Sirenia, Pinnipedia, and Cetacea, or primarily inhabits the marine environment such as polar bears.

ARTICLE III

The Government of the United States and the Government of Japan shall carry out periodic bilateral consultations regarding the implementation of this Agreement and the development of further cooperation in the field of fisheries of mutual concern, including the establishment of appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

ARTICLE IV

1. The Government of the United States is willing to allow access for fishing vessels of Japan to harvest, in accordance with the terms and conditions to be established in permits issued under Article IX, that portion of the total allowable catch for a specific fishery resource that will not be harvested by fishing vessels of the United States and may be made available to fishing vessels of Japan in accordance with paragraph 2 below.

2. The Government of the United States shall determine each year, subject to such adjustments as may be necessitated by unforeseen circumstances affecting the stocks, and in accordance with United States law,

(a) the total allowable catch for each fishery resource based on optimum yield, taking into account the best available scientific evidence, and relevant social, economic and other factors;

(b) the harvesting capacity of fishing vessels of the United States in respect of each fisherv resource;

(c) the portion of the total allowable catch for a specific fishery resource that may be made available, on a periodic basis each year, to foreign fishing vessels; and

(d) the allocation of such portion that may be made available to authorized fishing vessels of Japan.

3. The Government of the United States shall determine each year in accordance with United States law the measures necessary to prevent overfishing, while achieving on a continuing basis the optimum yield from each fishery resource. Such measures are described in Annex I which constitutes an integral part of this Agreement.

4. The Government of the United States shall notify the Government of Japan of the determinations provided for in this Article on a timely basis.

ARTICLE V

In determining the portion of the surplus of the total allowable catch for fishery resources that may be made available to fishing vessels of foreign nations, including Japan,

the Government of the United States will decide on the basis of the factors identified in United States law including:

1. whether, and to what extent, such nations impose tariff barriers or nontariff barriers on the importation, or otherwise restrict the market access, of United States fish or fishery products;

2. whether, and to what extent, such nations are cooperating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fishery products from United States processors or from United States fishermen;

3. whether, and to what extent, such nations and the fishing vessels of such nations have cooperated with the United States in the enforcement of United States fishing regulations;

4. whether, and to what extent, such nations require the fish harvested from the fishery conservation zone for their domestic consumption;

5. whether, and to what extent, such nations otherwise contribute to, or foster the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology

which will benefit the United States fishing industry;

6. whether, and to what extent, the fishing vessels of such nations have traditionally engaged in fishing for such fishery resources;

7. whether, and to what extent, such nations are cooperating with the United States in, and making contributions to, fishery research and the identification of fishery resources; and

8. such other matters as the Government of the United States deems appropriate.

ARTICLE VI

The Government of Japan shall cooperate with and assist the United States in the development of the United States fishing industry and the increase of United States fishery exports by taking such measures as reducing or removing impediments to the importation and sale of United States fishery products, providing information concerning technical and administrative requirements for access of United States fishery products into Japan, providing economic data, sharing expertise, facilitating the transfer of harvesting or

processing technology to the United States fishing industry, facilitating appropriate joint venture and other arrangements, informing Japanese industry of trade and joint venture opportunities with the United States, and taking such other actions as may be appropriate.

ARTICLE VII

In view of the fact that the anadromous species of fish of United States origin intermingle with such species of fish of other origins in certain waters of their migratory range, the Government of the United States and the Government of Japan shall hold consultations concerning necessary conservation measures for such species of fish in the event that the International Convention for the High Seas Fisheries of the North Pacific Ocean signed at Tokyo on May 9, 1952, as amended by the Protocol signed at Tokyo on April 25, 1978, ceases to be effective.

ARTICLE VIII

The Government of Japan shall take all necessary measures to ensure:

1. that nationals and fishing vessels of Japan refrain from fishing for the living resources over which the United States exercises exclusive fishery management authority except as authorized pursuant to this Agreement;

2. that all such fishing vessels so authorized comply with the terms and conditions of permits issued pursuant to this Agreement and applicable laws of the United States; and

3. that the allocation referred to in paragraph 2(d) of Article IV is not exceeded for any fishery.

ARTICLE IX

The Government of Japan may submit an application to the Government of the United States for a permit for each fishing vessel of Japan that wishes to engage in fishing in the fishery conservation zone pursuant to this Agreement. Such application shall be prepared and processed in accordance with Annex II which may be amended by agreement through an exchange of notes between the two Governments without modification of the articles of this Agreement. The Government of the United States may require the payment of fees for

such permits and for fishing in the fishery conservation zone.

ARTICLE X

The Government of Japan shall ensure that nationals and fishing vessels of Japan refrain from harassing, hunting, capturing or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the fishery conservation zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established by the Government of the United States.

ARTICLE XI

The Government of Japan shall take necessary measures, within its competence, to ensure that in the conduct of the fisheries under this Agreement:

1. the authorizing permit for each fishing vessel of Japan is prominently displayed in the wheelhouse of such fishing vessel;

2. appropriate position-fixing and identification equipment, as determined by the Government of the United States, is installed and maintained in working order on each fishing vessel of Japan;

3. designated United States observers are permitted to board, upon request, any fishing vessel of Japan and accorded the courtesies and accommodations provided to ship's officers while aboard such fishing vessel, and owners, operators and crews of such fishing vessel cooperate with the United States observers in the conduct of their official duties, and, further, the Government of the United States be reimbursed for the costs of providing the United States observers aboard such fishing vessel;

4. agents are appointed and maintained within the United States possessing the authority to receive and respond to any legal process issued in the United States with respect to an owner or operator of a fishing vessel of Japan for any cause arising out of the conduct of fishing activities for the living resources over which the United States exercises exclusive fishery management authority; and

5. all necessary measures are taken to minimize fishing gear conflicts and to ensure the prompt and adequate

compensation of nationals of the United States for any loss of, or damage to, their fishing vessels, fishing gear or catch, and resultant economic loss, that is caused by any fishing vessel of Japan, as determined by applicable United States procedures.

ARTICLE XII

The Government of Japan shall take all appropriate measures to assist the Government of the United States regarding enforcement activities and to ensure that nationals and fishing vessels of Japan comply with the terms and conditions provided for in this Agreement. It shall take appropriate measures to ensure that each fishing vessel of Japan that engages in fishing for the living resources over which the United States exercises exclusive fishery management authority allow and assist the boarding and inspection of such fishing vessel by any duly authorized enforcement officer of the United States and cooperate in such enforcement action as may be taken pursuant to the laws of the United States.

ARTICLE XIII

1. The United States will impose appropriate penalties,

in accordance with its laws, on fishing vessels of Japan or their owners or operators, that violate the requirements of this Agreement or the terms and conditions of any permit issued hereunder.

2. In cases of seizure of a fishing vessel of Japan and detention or arrest of its crews by the authorities of the Government of the United States, notification shall be given promptly through diplomatic channels informing the Government of Japan of the action taken and of any penalties subsequently imposed.

3. Seized fishing vessels of Japan and their detained or arrested crews shall be promptly released, subject to such reasonable bond or other security as may be determined by the court of the United States.

ARTICLE XIV

1. The Government of the United States and the Government of Japan shall cooperate in the conduct of scientific research required for the purpose of managing and conserving the living resources over which the United States exercises exclusive fishery management authority, including the

compilation of the best available scientific information for management and conservation of stocks of mutual interest.

2. The competent agencies of the two Governments shall cooperate in the development of periodic research plans on stocks of mutual interest through correspondence or meetings as appropriate, and may modify them from time to time by mutual consent. The research plans may include, but are not limited to, the exchange of information and scientists, regularly scheduled meetings between scientists to prepare future research plans and review progress, and jointly conducted research projects.

3. The conduct of research during regular commercial fishing operations on board a fishing vessel of Japan in the fishery conservation zone shall not be deemed to change the character of the activities of such fishing vessel from fishing to scientific research. Therefore, it will be necessary to obtain a permit for such fishing vessel in accordance with Article IX.

4. The Government of Japan shall cooperate with the Government of the United States in collecting and reporting biostatistical information and fisheries data, including catch and effort statistics, in accordance with procedures which will be stipulated by the Government of the United States.

ARTICLE XV

Should the Government of the United States indicate to the Government of Japan that nationals and fishing vessels of the United States wish to engage in fishing in the fishing zone of Japan, the Government of Japan is willing to allow such fishing on the basis of reciprocity and on terms not more restrictive than those established pursuant to this Agreement.

ARTICLE XVI

Nothing contained in this Agreement shall affect or prejudice in any manner the positions of either Government with respect to the extent of internal waters, of the territorial sea, of the high seas, or of coastal state jurisdiction or authority for any purpose other than the management and conservation of fishery resources.

ARTICLE XVII

This Agreement shall enter into force on a date to be agreed upon by an exchange of notes between the two Govern-

ments, following the completion of their internal procedures necessary for the entry into force of this Agreement, and remain in force until December 31, 1987, unless extended by agreement of the two Governments in a mutually acceptable form. However, either Government may terminate this Agreement at any time by giving twelve months' written notice to the other Government.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

DONE at Washington, on the tenth day of September, 1982, in duplicate in the English and Japanese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF JAPAN:

ANNEX I

MANAGEMENT AND CONSERVATION MEASURES

The measures to be determined by the Government of the United States under paragraph 3 of Article IV may include, inter alia:

1. designated areas where, and periods when, fishing shall be permitted, limited, or conducted only by specified types of fishing vessels or with specified types and quantities of fishing gear;
2. limitations on the catch of fish based on area, species of fish, size, number, weight, sex, incidental catch, or other factors;
3. limitations on the number and types of fishing vessels that may engage in fishing and/or on the number of days each fishing vessel of the total fleet may engage in a designated area for a specified fishery;
4. requirements as to the types of fishing gear that may, or may not, be employed; and
5. requirements designed to facilitate enforcement of such conditions and restrictions, including the maintenance of appropriate position-fixing and identification equipment.

ANNEX II

APPLICATION AND PERMIT PROCEDURES

The following procedures shall govern the application for and issuance of annual permits authorizing fishing vessels of Japan to engage in fishing for the living resources over which the United States exercises exclusive fishery management authority:

1. The Government of Japan may submit an application to the Government of the United States for each fishing vessel of Japan that wishes to engage in fishing pursuant to this Agreement. Such application shall be made on forms provided by the Government of the United States for that purpose. In submitting applications for permits, the Government of Japan will give due consideration to the need to minimize the number of such applications, in order to aid in the efficient administration of the permit issuance program by the Government of the United States.

2. Any such application shall specify:

(a) the name and official number or other identification of the fishing vessel for which a permit is sought, together with the name and address of the owner and operator thereof;

(b) the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other information relating to the fishing characteristics of the fishing vessel as may be requested;

(c) a specification of each fishery in which the fishing vessel wishes to engage;

(d) the amount of fish or tonnage of catch by species of fish contemplated for the fishing vessel during the time such permit is in force;

(e) the ocean area in which, and the season or period during which, such fishing would be conducted; and

(f) such other relevant information as may be requested, including desired transshipping areas.

3. The Government of the United States shall review each application, shall determine what conditions and restrictions may be needed, and what fees will be required under Article IX, and shall inform the Government of Japan of such determinations. The Government of the United States reserves the right not to approve applications. The Government of the United States will seek to consult, as appropriate, with the Government of Japan, in making its disapproval of applications.

4. The Government of Japan shall thereupon notify the Government of the United States of its acceptance or rejection of such conditions and restrictions and, in the case of a rejection, of its objections thereto.

5. Upon acceptance of the conditions and restrictions by the Government of Japan and the payment of any applicable fees, the Government of the United States shall approve the application and issue a permit for each fishing vessel of Japan, which shall thereupon be authorized to fish pursuant to this Agreement and the terms and conditions set forth in the permit. Such permits shall be issued for a specific fishing vessel of Japan and shall not be transferred.

6. In the event the Government of Japan notifies the Government of the United States of its objections to specific conditions and restrictions, the two Governments may consult with respect thereto and the Government of Japan may thereupon submit a revised application.

AGREED MINUTES

The representatives of the Government of the United States of America and the Government of Japan have agreed to record the following in connection with the Agreement between the Government of the United States of America and the Government of Japan Concerning Fisheries off the Coasts of the United States of America signed today (hereinafter referred to as the "Agreement"):

1. With respect to paragraph 1 of Article II, the representatives of the Government of the United States and the Government of Japan noted that both Governments recognize the right of coastal states to claim exclusive fishery jurisdiction over maritime areas within a maximum 200 nautical miles from baselines drawn in conformity with international law.

Therefore, it is understood that "areas beyond national fisheries jurisdictions recognized by the United States" referred to in that paragraph means areas of the high seas not belonging to any fishing zone claimed by a coastal state in conformity with the right mentioned above.

2. The representatives of the Government of the United States and the Government of Japan emphasized the importance

of the periodic bilateral consultations provided for in Article III. In this connection, the representative of the Government of the United States stated that, with respect to the determinations made under Article IV, his Government will, to the extent permitted by United States law, take into account the views which may be expressed by the Government of Japan.

3. With respect to paragraph 2 of Article IV, the representative of the Government of Japan stated that the need of nationals of Japan concerned to make plans for their annual fishing operations is important to the efficiency of their fishing operations in the fishery conservation zone and to the promotion of cooperation in the development of the United States fishing industry.

In this connection, the representative of the Government of the United States stated that it was his expectation that his Government would notify the Government of Japan as early as possible of the projected allocations for each fishing year to fishing vessels of Japan and the expected dates of periodic releases of such projected allocations in accordance with Articles IV and V.

He also stated that, in order to facilitate planning for fishing operations of nationals of Japan concerned

and their cooperation in the development of the United States fishing industry, flexibility concerning the release of allocations could be provided by the Government of the United States to the extent consistent with United States law and the determination made pursuant to Article V.

4. With respect to Article V, the representative of the Government of Japan emphasized the importance of the Japanese fishing industry to the Japanese economy, and urged that the Government of the United States give due consideration to the need for continuation of stable fishing operations by fishing vessels of Japan in the fishery conservation zone.

The representative of the Government of the United States emphasized the importance of rapid and full development of the United States fishing industry to the United States economy and pointed to the importance which his Government attached to Japanese cooperation in that regard.

The representative of the Government of Japan, bearing in mind that the criteria in Article V would be utilized by the Government of the United States with development cooperation referred to in the preceding sentence principally in mind, requested that the Government of the United States give due consideration to past fishing per-

formance of Japanese fishermen. The representative of the Government of the United States took note of the request of the representative of the Government of Japan and indicated that it would be taken into account in accordance with United States law.

The representatives of the Government of the United States and the Government of Japan acknowledged the advantages to the respective industries of providing stability of cooperation in fishery relations, including fisheries development, fisheries trade, and fishery allocations, over reasonable periods of time.

5. The representative of the Government of the United States stated that Article VI illustrates the kinds of cooperation and assistance that might be sought.

He also noted that, in determining the portion to be allocated to fishing vessels of Japan under paragraph 2 of Article IV, the Government of the United States shall take into account as appropriate the efforts made by the Government of Japan for cooperation and assistance in the area of fisheries under Article VI.

6. With respect to Article VII, the representative of the Government of the United States stated that it was the

intention of his Government that it would consult with the Government of Japan concerning any enforcement action by United States authorities with respect to anadromous species of fish of United States origin beyond the fishery conservation zone.

7. In establishing the fees referred to in Article IX, it is understood that, to the extent permitted by United States law, the Government of the United States takes into account, among other factors, the economic conditions of the fisheries for various species of fish.

8. With respect to Article XIII, it is understood that the representatives of the Government of the United States will recommend to the court in any case arising out of fishing activities under the Agreement that the penalty for violation of fishery regulations of the United States not include imprisonment except in the case of enforcement related offenses such as assault on a duly authorized enforcement officer or refusal to permit boarding and inspection.

9. It is understood that the Government of the United States and the Government of Japan will cooperate in the exchange of scientific and technical information relating to species of tuna and other highly migratory species of mutual interest with a view to making regional arrangements, includ-

ing the establishment of appropriate international organizations, to ensure conservation of the species. Such exchanges shall include the reporting of tuna and associated catches.

It is further understood that at the outset of the Agreement and until such time as appropriate, the two Governments will, in order to establish a base of scientific information to further such arrangements, provide each other statistics on tuna and associated catches off the coasts of the United States.

10. The Government of the United States undertakes to authorize fishing vessels of Japan engaging in fishing pursuant to the Agreement to enter United States ports in accordance with United States laws for the purpose of purchasing bait, supplies, or outfits, or effecting repairs, or for such other purposes as may be authorized.

11. With respect to the conduct of transshipping operations by fishing vessels of Japan, the representative of the Government of the United States stated that transshipping areas would be provided as appropriate, taking into account

all relevant factors, including past practices, and would be set forth in permits or other applicable instruments.

WASHINGTON, September 10, 1982

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:

FOR THE GOVERNMENT OF JAPAN:

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